

Appln. No. 09/529,172  
Supplemental Amdt. dated June 4, 2004  
Reply to Office action of November 18, 2003

REMARKS

Claims 1-8, 12-19, 21-36, 54-58, and 65-71 currently appear in this case. In a telephone interview with Examiner Mehta on June 3, 2004, Examiner Mehta indicated that the claims other than those claims that require a deposit would be placed into condition for allowance if certain amendments were made, as were discussed in the interview. He also pointed out that there was a clerical error in the Request for Interference under 37 C.F.R. § 1.607 that had previously been filed, as the patent number set forth in the proposed count was unrelated to the subject matter of this case. He suggested that we file a corrected Request for Interference.

The present amendment makes all of the amendments suggested the examiner, and attached hereto is a Corrected Request for Interference under 37 C.F.R. § 1.607, which is identical to that originally filed, except that it corrects the number of the patent appearing in the first section of the proposed count on the first page of the request.

As at least one of applicant's claims are now allowable that are directed to the same subject matter as the claims of patent 6,040,498, and interference should now be instituted, notwithstanding the fact that claim 3 may still be subject to rejection pending establishment of the depository as an official depository by the Patent and Trademark Office.

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Reference is made to MPEP § 2309.02, relating to filling out  
the interference initial memorandum, which states:

Note that for each count, every claim in a  
party's application or patent must be  
designated as either corresponding or not  
corresponding to the count; this includes  
any claims of the application which may be  
under rejection.

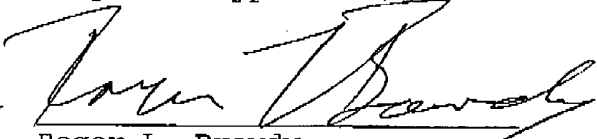
Therefore, it is clear that an interference memorandum can be  
filled out, even if one of the claims of the application is  
still under rejection.

Entry of the present amendment and the attached  
Corrected Request for Interference under 37 C.F.R. § 1.607,  
and institution of an interference preceding with U.S. patent  
6,040,498, as previously requested, are therefore earnestly  
solicited.

Respectfully submitted,

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